

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO.1361 OF 2023  
IN  
FIRST APPEAL NO.381 OF 2021**

Smt.Krishnabai Dnyaneshwar Ingawale & Ors. ...Applicants

*Versus*

The New India Assurance Co. Ltd.,  
Pune & Mumbai & Anr. ...Respondents

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Mr.Yogesh Pande, for the Applicants.

Mr.Rajesh Kanojia a/w Ms.Nikita Singh, Ms.Aarushi Srivastava i/b  
Res Juris, for Respondent No.1.

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**CORAM : S.G. DIGE, J.**

**DATE : 14 FEBRUARY 2023**

**P.C:-**

. Heard learned counsel for the Applicants and the  
learned counsel for Respondent No.1.

2. The learned counsel for the Applicants submit that  
the deceased was husband of Applicant No.1 and father of  
Applicant Nos.2 and 3.

3. The deceased was sole bread earner of Applicants  
family. After death of deceased Applicants are facing starvation.  
They have no source of income. The Applicants needed the

amount for their daily expenses. Hence, requested to allow the Application.

4. The learned counsel for Respondent No.1 strongly objected to allow the Application on the ground that there was breach of terms of Insurance Policy. The offending jeep had passengers more than permitted capacity but this fact is not considered by the Tribunal and awarded exorbitant and excessive compensation. Hence, requested to dismiss the Application.

5. I have heard both learned counsel.

6. The deceased was sole bread earner of the Applicants family. The Applicants needed the amount for their daily expenses. The grounds raised by the Respondent can be considered at the time of the final hearing of the Appeal. Hence, I pass following order.

### **ORDER**

- (i) The Application is allowed.
- (ii) The Applicants are permitted to withdraw 25% amount along with accrued interest out of the deposited amount, on furnishing undertaking.

(S.G. DIGE, J.)